

ESTTA Tracking number: **ESTTA593705**

Filing date: **03/20/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214960
Party	Defendant Myers, Jonathan
Correspondence Address	MYERS, JONATHAN 5820 HERSHOLT AVE LAKEWOOD, CA 90712-1340 johnnywmyers@gmail.com
Submission	Answer
Filer's Name	Jonathan Myers
Filer's e-mail	johnnywmyers@gmail.com
Signature	/Jonathan Myers/
Date	03/20/2014
Attachments	COBRA LORD ANSWER #91214960 1 to 7.pdf(1926964 bytes)

THE "ANSWER " TO THE OPPOSITION # 91214960 APPLICATION # 86072020

COBRALORD , RESPONSE "DISAGREE" 1 to 23 . OUR BASE, THE OPPOSITION AS A WHOLE.

Cobra Lord's application of their trademark does not infringe the distinguishable character of the trademark of Cobra in placement in the market place, distribution channels or in product category of each mark's respective target market.


Cobra Lord has been operating in its market since 2008 under this DBA. This is significant since a well-known trademark is admitted without a further action or the lengthy application procedure to be recorded as a well-known trademark. Evidence of this in the form of dated press editorials, trade show participation, website and social media vehicles and online web store will prove a market presence that has not confused the public or infringed upon the Cobra trademark.

The goods and the services that the trademark application covers belong to different sectors, it is seen that the application and the trademark that is the ground of the opposition does not create confusion especially with respect to the resources of the goods and it is determined that the registration of the trademark application will not cause an improper personal benefit from the trade reputation of the opponent company.

The owners of Cobra Lord intend to submit this argument to the opposition in an effort to allow for a positive outcome for trademark owners in finalizing the dispute during the opposition proceedings and avoiding lengthy court proceedings.

: (1) the marks in their entireties convey significantly different commercial impressions, or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted. See, e.g., Shen Manufacturing Co. v. Ritz Hotel Ltd., 393 F.3d 1238, 73 USPQ2d 1350 (Fed. Cir. 2004) (RITZ and THE RITZ KIDS create different commercial impressions); In re Farm Fresh Catfish Co., 231 USPQ 495 (TTAB 1986) (CATFISH BOBBERS (with "CATFISH" disclaimed) for fish held not likely to be confused with BOBBER for restaurant services); In re Shawnee Milling Co., 225 USPQ 747 (TTAB 1985) (GOLDEN CRUST for flour held not likely to be confused with ADOLPH'S GOLD'N CRUST and design (with "GOLD'N CRUST" disclaimed) for coating and seasoning for food items); In re S.D. Fabrics, Inc., 223 USPQ 54 (TTAB 1984) (DESIGNERS/FABRIC (stylized) for retail fabric store services held not likely to be confused with DAN RIVER DESIGNER FABRICS and design for textile fabrics).

PLEASE CONSIDER DROPPING YOUR OPPOSITION, WE PRAY WE CAN WORK IT OUT MAN TO MAN.

Signature	
Name	Johnathan W. Myers
Date	MAR / 20/ 2014

Johnathan W. Myers X 
MAR / 20/ 2014
phone# 562.397.2488
e.mail johnnywmyers@gmail.com
5820 HERSHOLT AVE
LAKEWOOD, CALIFORNIA 90712-1340

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Opposition of:)	
)	
Cobra Golf Incorporated)	
Opposer,)	Opposition No. _____
)	Serial No. 86/072,020
v.)	
)	
Jonathan Myers)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

In the matter of Application Serial No. 86/072,020 for the mark COBRA LORD in International Class 25, published for opposition on February 11, 2014 and filed September 23, 2013 by Jonathan Myers, a U.S. Citizen with an address of record at 5820 Hersholt Ave., Lakewood, CA 90712 (hereinafter "Applicant"), Opposer, Cobra Golf Incorporated, a Delaware corporation, located and doing business at 1818 Aston Avenue, Carlsbad, CA 92008 (hereinafter "Opposer"), believes that it will be damaged by registration of the COBRA LORD mark and hereby opposes same. As grounds for the opposition, it is alleged that:

I. LIKELIHOOD OF CONFUSION

1. Opposer is and for many years prior to the filing date of the application at issue, and alleged first use of the mark by Applicant, been engaged in the manufacture, marketing, promotion, distribution and sale of clothing, headwear, sports bags, sports equipment and accessories bearing Opposer's family of COBRA marks (hereinafter "COBRA marks").

1. COBRALORD, DISAGREE

2. Opposer, including through its predecessors in interest, has used its COBRA marks in the United States since at least as early as 1957. Accordingly, Opposer's COBRA marks are associated with Opposer in the United States and Opposer has priority of use and registration.

2. COBRALORD, DISAGREE

3. Opposer is the owner of U.S. Trademark Registration No. 1,851,522, registered August 30, 1994, for its COBRA mark for use in connection with "clothing; namely, shirts, sweaters, jackets, visors and caps" in International Class 25

3. COBRALORD, DISAGREE

4. Opposer is the owner of U.S. Trademark Registration No. 2,562,715, registered April 23, 2002, for its COBRA Stylized mark for use in connection with "clothing, for golf, namely, T-shirts, sweatshirts, sweaters, pants, shorts, jackets and hats" in Class 25.

4. COBRALORD, DISAGREE

5. Opposer is the owner of U.S. Trademark Registration No. 657,078, registered January 14, 1958, for its COBRA mark for use in connection "golf clubs" in Class 28.

5. COBRALORD, DISAGREE

6. Opposer is the owner of U.S. Trademark Registration No. 1,731,123, registered November 10, 1992, for its COBRA mark for use in connection "all-purpose sports bags" in Class 18 and "golf bags" in Class 28.

6. COBRALORD, DISAGREE

7. Opposer is the owner of U.S. Trademark Registration No. 1,876,713 registered January 31, 1995, for its KING COBRA mark for use in connection "golf clubs" in Class 28.

7. COBRALORD, DISAGREE

8. Opposer is the owner of U.S. Trademark Registration No. 2,149,337, registered April 7, 1998, for its COBRA mark for use in connection "golf bags, golf club heads, golf club shafts, golf clubs, hand grips for golf clubs, golf irons, golf putters" in Class 28.

8. COBRALORD, DISAGREE

9. Opposer is the owner of U.S. Trademark Registration No. 3,898,067, registered December 28, 2010, for its COBRA S3 mark for use in connection "golf clubs" in Class 28.

9. COBRALORD, DISAGREE

10. Pursuant to 15 U.S.C. § 1065 and 1115 (b), the referenced registrations in paragraphs 3-8, have become incontestable and all the registrations are evidence of Opposer's right to use the

mark in connection with the goods identified in the registrations. Copies of the registrations identified in paragraphs 3-9 are attached hereto as Exhibit A.

10. COBRALORD, DISAGREE

11. As noted in paragraph 2, since long prior to September 23, 2013, filing date of the application herein opposed and June 6, 2011, alleged first use of the mark by Applicant, Opposer adopted and commenced use of its COBRA marks as a trademark in connection with the marketing, promoting, offering for sale and selling of various items of clothing, headwear, sports bags, sports equipment and accessories in the United States, continuously using the COBRA marks since at least as early as 1957 in connection with the sale of goods in commerce. The COBRA marks have been continuously used by Opposer in connection with the marketing, promoting, offering for sale and selling of its products in the United States since that time.

11. COBRALORD, DISAGREE

12. As a result of the extensive use and advertising by Opposer of the trademarks referred to herein, said marks have become associated with Opposer and Opposer has built up valuable goodwill in said marks such that the marks have come to identify Opposer's goods, including clothing, headwear, sports bags, sports equipment and accessories, and distinguish Opposer's goods, from the related goods of others.

12. COBRALORD, DISAGREE

13. The Application at issue is for the trademark COBRA LORD and Applicant seeks to register the trademark for "hats; jackets; t-shirts" in International Class 25."

13. COBRALORD, DISAGREE

14. The goods identified by Applicant in Serial No. 85/072,020 are the same as and related to goods on which Opposer has previously used and now uses its COBRA marks and to the goods recited in Opposer's registrations referred to herein and attached as Exhibit A.

14. COBRALORD, DISAGREE

15. Applicant's COBRA LORD trademark has a substantially similar sight, sound and overall commercial impression to Opposer's COBRA marks.

15. COBRALORD, DISAGREE

16. Applicant's trademark is substantially identical or equivalent to and creates the substantially same commercial impression in the minds of prospective purchasers as the Opposer's COBRA marks identified herein and previously used by Opposer and is likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive, all to Opposer's damage.

16. COBRALORD, DISAGREE

17. Applicant's goods identified in Application No. 85/072,020 are identical and related to the goods sold by Opposer under its trademarks, resulting in the same target consumers and channels of trade for marketing, promoting and the offering for sale of the parties' respective products.

17. COBRALORD, DISAGREE

18. As a result of confusing similarity between the Applicant's trademark and Opposer's COBRA marks, the proximity of the parties' goods, target consumers and resulting channels of trade, there is a likelihood of consumer confusion resulting from Applicant's use and registration of the COBRA LORD trademark seen in Application No. 85/072,020.

18. COBRALORD, DISAGREE
COUNT 2 – DILUTION

19. Opposer repeats and realleges the allegations set forth in Paragraphs 1-18 as fully set forth herein.

19. COBRALORD, DISAGREE

20. The COBRA marks through extensive advertising, promotion and sales have become famous trademarks and became famous long prior to the filing date of Applicant's filing for COBRA LORD or its alleged first use of the mark.

20. COBRALORD, DISAGREE

21. The COBRA marks are strong and highly distinctive marks.

21. COBRALORD, DISAGREE

22. Use of the COBRA LORD trademark would dilute the distinctive quality of the COBRA marks of Opposer.

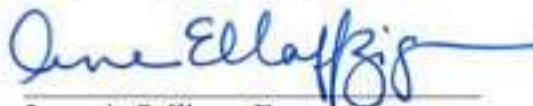
22. COBRALORD, DISAGREE

23. Opposer would be damaged by the registration of the COBRA LORD mark because such registration will support and assist Applicant in the use of the COBRA LORD trademark and will give it the color of right in a trademark that dilutes the distinctive quality of the COBRA marks of Opposer.

WHEREFORE, Opposer prays that Application No. 86/072,020 be rejected and that this opposition be sustained in favor of Opposer.

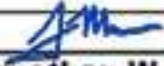
23. COBRALORD, DISAGREE

Respectfully submitted,



Lynn A. Sullivan, Esq.
Anne E. Naffziger, Esq.
Michelle L. Zimmerman, Esq.
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, IL 60601
Telephone: (312) 616-5600
Attorneys for Opposer
Cobra Golf Incorporated

Date: February 18, 2014

Signature	
Name	Johnathan W. Myers
Date	MAR / 20 / 2014

Johnathan W. Myers X 
MAR / 20 / 2014
phone# 562.397.2488
e.mail johnnywmyers@gmail.com
5820 HERSHOLT AVE
LAKEWOOD, CALIFORNIA 90712-1340

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the above document was filed electronically with the Trademark Trial & Appeal Board on March 20, 2014.

Date: March 20, 2014.

Signed: _____



JONATHAN MYERS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been served by first-class mail to:


**Cobra Golf, Anne E. Naffziger | Leydig, Voit & Mayer, LLP
Attorney at Law | Intellectual Property
The Atrium Building | 1981 N. Broadway, Suite 310
Walnut Creek, CA 94596 | USA**

Date: March 20, 2014.

Signed: _____



JONATHAN MYERS

Signature	
Name	Johnathan W. Myers
Date	MAR / 20 / 2014

Johnathan W. Myers X 
MAR / 20 / 2014
phone# 562.397.2488
e.mail johnnywmyers@gmail.com
5820 HERSHOLT AVE
LAKEWOOD, CALIFORNIA 90712-1340